

**ARTICLE 19**  
**Amend By-Laws Article 40:**  
**Town Reports and Records**  
**(Planning Board)**

To see if the Town will vote to amend Article 40, Section 6 of the Town By-Laws to modify the deadline for distribution of Planning Board reports on warrant article recommendations to Town Meeting members, or otherwise act thereon.

**RECOMMENDATION:** By a vote of 11-0-0 on September 19, 2010, The Finance Committee recommends FAVORABLE ACTION with regard to the subject of Article 19.

*During the review of this article it was noted:*

- *Prior to its dissolution, the Charter and By-Law Committee prepared the language for this proposed amendment. The proposed amendment makes the language regarding distribution of Planning Board reports ahead of Town Meeting consistent with those of the Finance Committee. Article 36 of the 2009 Fall Town Meeting warrant, which was prepared by the Charter and By-Law Review Committee, passed by majority vote, amended Article 23 of the By-Laws (Finance Committee). This included a change so that the Finance Committee was required to submit its report to Town Meeting members seven (rather than ten) days in advance of a Town Meeting, except where compliance with this provision would defeat the purpose of a Special Town Meeting. Through inadvertent omission, a warrant article amending Article 40 was not submitted at the same time.*

***Proposed Revision:***

**Section 6      *Planning Board Report to Town Meeting***

*The Planning Board shall distribute its report on warrant article recommendations, as specified in Section 3-11 (b) of the Charter, to each Town Meeting Member at least ~~ten (10)~~ seven (7) days in advance of a Town Meeting, except where compliance with this provision would defeat the purpose of a Special Town Meeting. The said recommendations shall be those of a majority of the Board, but this shall not be construed to prevent recommendations by a minority as such.*

**MOTION:** (Requires majority vote)

**Move that the Town vote to amend the first sentence of Section 6 of Article 40 (Town Reports and Records) of the Town By-Laws as follows:**

- 1. Replace “ten (10)” with “seven (7)”**
- 2. After the phrase “in advance of a Town Meeting” insert the phrase “, except where compliance with this provision would defeat the purpose of a Special Town Meeting”.**

**ARTICLE 20**  
**Amend By-Law Article 41 –**  
**Advance Actions by Town Boards**  
**on Town Meeting Warrant Articles**  
**(Paul E. Connolly, et al)**

To see if the Town will vote to amend Article 41 of the Town of Natick By-Laws in order to regulate advance actions by Town boards on Town Meeting warrant articles, such actions to include, but not be limited to, preparation of agendas, publication of notices by electronic means, gathering of relevant information from the public, and voting a recommendation to Town Meeting.

**RECOMMENDATION: By a vote of 11-0-0 on September 28, 2010, The Finance Committee recommends REFERRAL TO THE SPONSOR with regard to the subject of Article 20.**

*During the review of this article it was noted:*

- *The Sponsor noted that the purpose of this Article is to make it clear that Town boards must do more to insure that the public is informed of what subjects a Town board will discuss and must make it easier for members of the public to offer their points of view to the board at the best time for the board to consider them.*
- *The proponent's intent is that these requirements would apply to Warrant Article hearings only.*
- *At present, different Town boards follow different practices in gathering and assessing various points of view relative to a subject on a Town Meeting warrant. If a board decides to make a recommendation to Town Meeting for or against action on that subject, that recommendation should reflect the fact that the board provided to members of the public the opportunity to present points of view to the board for consideration by the board.*
- *The Sponsor noted that a search of the Town's website revealed that the posted agenda for the Selectmen's meeting contained a list of Articles to be reviewed identified by number only, with no clarification of any Article's subject matter; a Finance Committee agenda did include a short title as well as the number of each Article scheduled for review. Although the argument could be made that, through cross-referencing, interested parties could determine the subject matter of each of the Articles listed only by number, this was not considered by the proponent to be sufficient to encourage and make it easier for those members of the public interested in particular Articles to give their input.*
- *Although the proposal overlaps with provisions of the Open Meeting Law, as recently revised, the proponent believes it goes further, as is the Town's right, in defining how things should be done.*
- *Analysis by a member of the Public Safety subcommittee had indicated that provisions 13.4.1, 13.4.3, 13.4.4 and 13.4.5 of the proposed amendment were all requirements under the new Open Meeting Law; and the proposed item 13.4.6 (deliberation of an item not on the posted agenda) was specifically prohibited under that law.*
- *The sponsor's recommendations were based on his observations of how things have been done in the past.*
- *Questions were raised regarding a provision which would require an email notification feature of Town website postings. Although this is a capability of the current Virtual Town Hall software, this technology has not been proven to work consistently and it was suggested that making this consistently available would likely involve some cost to the Town.*

## **Article 20 Cont'd**

- *Although Town employees, including the Town Clerk, are responsible for certain of the website postings, imposing additional requirements could also increase staff time required and thereby add further costs.*

**MOTION:** (Requires majority vote)

**Move that the Town vote to refer the subject matter of Article 20 to the Sponsor.**

### **ORIGINAL POSITIVE MAIN MOTION:**

**Move that the Town vote to amend Article 41 of the Town of Natick By-Laws by adding the following new section:**

#### **Section 13 Advance Actions by Town Boards on Town Meeting Warrant Articles**

**13.1 Purpose -** It is the intent of this by-law to provide increased opportunities for the public to be informed about actions of Town boards that relate to subjects that are on the official warrant for Town Meeting and to offer information on such subjects in a timely manner to those boards that may choose to make a recommendation to Town Meeting.

**13.2 Definitions -** For the purpose of this by-law, the following words shall mean:

**Action:** Acts of the board during an official meeting and acts authorized by the board that are carried out by agents, to include preparation and posting of legal notices, preparation and posting of agendas, conduct of public hearings, discussion, decision, preparation of recommendations to Town Meeting, and written or oral communication of such recommendations to Town Meeting.

**Board:** Any Town board, commission, or committee, including any subcommittees thereof and special committees appointed by them, subject to the Open Meeting Law, that take action on any subject on the official warrant for Town Meeting.

**By-law, this:** Section 13 of Article 41 of the Town of Natick By-Laws.

**Open Meeting Law:** M.G.L., c. 30A, s. 18-25.

**Website:** The Town of Natick website, including an electronic calendar and capabilities for posting, notices, agendas, and minutes and a notification feature that permits subscribers to receive notification by email whenever items are posted.

**13.3 Applicability -** The provisions of this by-law shall apply only in situations when a board chooses to take action on subjects that are on the official warrant for Town Meeting. When a board is taking action on subjects that may later be placed on the official warrant or when a board is acting after Town Meeting dissolves, the provisions of this by-law shall not apply.

## **Article 20 Cont'd**

### **13.4 Particular Requirements**

**13.4.1** Whenever a board prepares a notice or agenda containing subjects that relate to subjects on the official warrant for Town Meeting, the board shall make reference to the specific articles by article number and title.

**13.4.2** All such notices and agendas shall be posted on the website in such a way that notification by email to subscriber's results. Posting in advance of the meeting shall comply with the same time requirements as for posting on the official bulletin board.

**13.4.3** Calendar items on the website shall be linked to posted agendas when the agendas have been posted.

**13.4.4** Whenever a board, at its meeting, requests input from any person, who is not a member of the board, as part of its discussion of subjects that relate to subjects on the official warrant for Town Meeting, the board shall offer an opportunity for other points of view to be heard.

**13.4.5** Whenever a board, at its meeting, is discussing a subject that relates to subjects on the official warrant for Town Meeting, in response to receipt of a communication from any person, the board shall offer an opportunity for other points of view to be heard.

**13.4.6** Under extraordinary circumstances, a board may take up a subject that relates to subjects on the official warrant for Town Meeting when that subject is not on its agenda. However, in such a situation, the board must first vote to authorize that action by recorded, unanimous roll-call vote.

**13.5 Separability -** Requirements of this by-law are separate from any requirements of the Open Meeting Law and shall not be construed as modifications or extensions of the requirements of the Open Meeting Law.

### **13.6 Enforcement**

**13.6.1** Alleged violations of any provision of this by-law shall be investigated in accordance with Article 92 of the Town of Natick By-Laws.

**13.6.2** Unless another member of the board has responsibility, the fine shall be the responsibility of the chair of the board.

**13.6.3** An isolated occurrence of failure to comply with any provision of this by-law in which compliance involves use of electronic devices shall not be considered a violation. However, repeated failures to comply may be considered a violation.

**ARTICLE 21**  
**Amend By-Laws Article 60: Fire Regulations**  
**(Town Administrator)**

To see if the Town will vote to amend Article 60 of the Town of Natick By Laws as follows:

1. Within Section 1, by renumbering subparagraphs “3” and “4” as subparagraphs “1” and “2”.

Or otherwise act thereon

**RECOMMENDATION:** By a vote of 11-0-0 on September 21, 2010, The Finance Committee recommends FAVORABLE ACTION with regard to the subject of Article 21.

*During the review of this article it was noted:*

- *It was stated that this Article was the result of a typographical error which occurred when this by-law update was presented by the Charter & By-Law Review Committee (CBRC) at Spring 2010 Town Meeting.*

**MOTION:** (Requires majority vote)

**Move that the Town vote to amend Article 60 of the Town of Natick By-Laws by renumbering subparagraphs “3” and “4” within Section 1 as subparagraphs “1” and “2”.**

**ARTICLE 22**  
**Amend By-Laws Article 74: Junk Dealers**  
**(Town Administrator)**

To see if the Town will vote to amend Article 74 of the Town of Natick By Laws as follows:

1. By titling Section 1 "Licensing".
2. In Section 1, by inserting a period after the phrase "second-hand articles"
3. In Section 1, by deleting the word "and" and capitalizing the "n" in the word "no"
4. In Section 1, by inserting a 2<sup>nd</sup> paragraph to read as follows: "A copy of this by-law will be provided to each licensee at the time of licensing or renewal."
5. In Section 1, by inserting a 3<sup>rd</sup> paragraph to read as follows: "After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing."
6. By titling Section 2 "Inflammable Materials"
7. By titling Section 3 "Requirements of Licensees"
8. In Section 3, in the second paragraph thereof, by deleting the word "ten" and replacing it with the phrase "thirty (30)"
9. In Section 3, by deleting the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> paragraphs in their entirety.
10. By adding a new Section 4 to be entitled "Fines", said Section 4 to read as follows:  
"Operating as a dealer in or keeper of a shop for the purchase, sale, and/or barter of junk, old metal and second-hand articles without this license shall be punishable by a fine as established by Massachusetts General Law Chapter 140, Section 55."

Violations of the provisions of Section 2 or Section 3 of this by-law shall be punishable by a fine of one hundred (\$100.00), and each transaction in violation shall constitute a separate offense."

Such that the resulting Article 74 of the By-Laws shall read as follows:

**ARTICLE 74**  
**JUNK DEALERS**

**Section 1      Licensing**

The Selectmen shall license suitable persons to be dealers in and keepers of shops for the purchase, sale, and barter of junk, old metal and second-hand articles. No person shall be a dealer in or keeper of such a shop without a license.

## **Article 22 Cont'd**

A copy of this by-law will be provided to each licensee at the time of licensing or renewal.

After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing.

### **Section 2      Inflammable Materials**

No person shall use any building, enclosure or other structure for the storage, sale or keeping of rags, waste paper, stock or other inflammable material without a written license therefor from the Selectmen.

### **Section 3      Requirements of Licensees**

Every keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, within the limits of the Town, shall keep a record in the form prescribed by the police department, on which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made. No article shall be accepted without a showing of positive photo identification by the person offering the article for sale to the shop keeper. The shop keeper's record shall at all times be open to the inspection of the Selectmen, members of the police department and any other person authorized by the Board of Selectmen to make such inspection.

A copy of the weekly record shall be forwarded to the police department operations division at the end of each week, and any article taken into possession by the shop keeper shall be held on premises for thirty (30) days before resale.

### **Section 4      Fines**

Operating as a dealer in or keeper of a shop for the purchase, sale, and/or barter of junk, old metal and second-hand articles without this license shall be punishable by a fine as established by Massachusetts General Law Chapter 140, Section 55.

Violations of the provisions of Section 2 or Section 3 of this by-law shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense.

Or take other action relative thereto.

**RECOMMENDATION: By a vote of 12-0-0 on September 21, 2010, The Finance Committee recommends FAVORABLE ACTION with regard to the subject of Article 22.**

*During the review of this article it was noted:*

- *The purpose of this Article is to better organize and clarify the provisions of Article 74.*

## **Article 22 Cont'd**

- *The changes being proposed consist of the addition of section titles and rearrangement of content to improve organization, as well as the addition of a statement concerning provision of a list of licensed junk dealers to the Police Department, and addition of a section dealing with fines which may be imposed in certain instances.*
- *It was noted that a previous revision of this by-law had been put forward by the CBRC at the Spring 2010 Town Meeting, but questions had been raised on the floor and it was therefore referred to the Town Administrator for follow up on the issues raised.*

### **SEE REDLINED COPY OF BYLAW BELOW**

#### **MOTION:** (Requires majority vote)

**Move that the Town vote to amend Article 74 of the Town of Natick By-Laws as follows:**

1. By titling Section 1 "Licensing".
2. In Section 1, by inserting a period after the phrase "second-hand articles"
3. In Section 1, by deleting the word "and" and capitalizing the "n" in the word "no"
4. In Section 1, by inserting a 2nd paragraph to read as follows: "A copy of this by-law will be provided to each licensee at the time of licensing or renewal."
5. In Section 1, by inserting a 3rd paragraph to read as follows:  
"After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing."
6. By titling Section 2 "Inflammable Materials"
7. By titling Section 3 "Requirements of Licensees"
8. In Section 3, in the second paragraph thereof, by deleting the word "ten" and replacing it with the phrase "thirty (30)"
9. In Section 3, by deleting the 3rd, 4th and 5th paragraphs in their entirety.
10. By adding a new Section 4 to be entitled "Fines", said Section 4 to read as follows:  
  
"Operating as a dealer in or keeper of a shop for the purchase, sale, and/or barter of junk, old metal and second-hand articles without this license shall be punishable by a fine as established by Massachusetts General Law Chapter 140, Section 55. Violations of the provisions of Section 2 or Section 3 of this bylaw shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense."

**Such that the resulting Article 74 of the By-Laws shall read as follows:**

#### **ARTICLE 74 JUNK DEALERS**

##### **Section 1 Licensing**

**The Selectmen shall license suitable persons to be dealers in and keepers of shops for the purchase, sale, and barter of junk, old metal and second-hand articles. No person shall be a dealer in or keeper of such a shop without a license.**

## **Article 22 Cont'd**

**A copy of this by-law will be provided to each licensee at the time of licensing or renewal.**

**After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing.**

### **Section 2 Inflammable Materials**

**No person shall use any building, enclosure or other structure for the storage, sale or keeping of rags, waste paper, stock or other inflammable material without a written license therefor from the Selectmen.**

### **Section 3 Requirements of Licensees**

**Every keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, within the limits of the Town, shall keep a record in the form prescribed by the police department, on which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made. No article shall be accepted without a showing of positive photo identification by the person offering the article for sale to the shop keeper. The shop keeper's record shall at all times be open to the inspection of the Selectmen, members of the police department and any other person authorized by the Board of Selectmen to make such inspection.**

**A copy of the weekly record shall be forwarded to the police department operations division at the end of each week, and any article taken into possession by the shop keeper shall be held on premises for thirty (30) days before resale.**

### **Section 4 Fines**

**Operating as a dealer in or keeper of a shop for the purchase, sale, and/or barter of junk, old metal and second-hand articles without this license shall be punishable by a fine as established by Massachusetts General Law Chapter 140, Section 55.**

**Violations of the provisions of Section 2 or Section 3 of this by-law shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense.**

## ARTICLE 74

### JUNK DEALERS

#### Section 1 Licensing

The Selectmen shall license suitable persons to be dealers in and keepers of shops for the purchase, sale, and barter of junk, old metal and second-hand articles, ~~and~~ No person shall be a dealer in or keeper of such a shop without a license.

A copy of this by-law will be provided to each licensee at the time of licensing or renewal.

After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing.

#### Section 2 Inflammable Materials

No person shall use any building, enclosure or other structure for the storage, sale or keeping of rags, waste paper, stock or other inflammable material without a written license therefor from the Selectmen.

#### Section 3 Requirements of Licensees

Every keeper of a shop for the purchase, sale or barter of junk, old metals, or second-hand articles, within the limits of the Town, shall keep a record in the form prescribed by the police department, on which shall be written, at the time of every purchase of any such article, a description thereof, the name, age and residence of the person from whom, and the day and hour when, such purchase was made. No article shall be accepted without a showing of positive photo identification by the person offering the article for sale to the shop keeper. The shop keeper's record shall at all times be open to the inspection of the Selectmen, members of the police department and any other person authorized by the Board of Selectmen to make such inspection.

A copy of the weekly record shall be forwarded to the police department operations division at the end of each week, and any article taken into possession by the shop keeper shall be held on premises for ~~ten~~ thirty (30) days before resale.

~~After completion of the licensing/renewal process the Board of Selectmen shall forward a list to the police department of all licenses in good standing.~~

~~Violations of the provisions of Sections 2 and 3 of this by-law shall be punishable by a fine of one hundred dollars (\$100.00), and each transaction in violation shall constitute a separate offense.~~

~~A copy of this by-law will be provided to each licensee at the time of licensing or renewal.~~

#### Section 4 Fines

Operating as a dealer in or keeper of a shop for the purchase, sale, and/or barter of junk, old metal and second-hand articles without this license shall be punishable by a fine as established by Massachusetts General Law Chapter 140, Section 55.

Violations of the provisions of Section 2 or Section 3 of this by-law shall be punishable by a fine of one hundred ~~dollars~~ (\$100.00), and each transaction in violation shall constitute a separate offense.

**ARTICLE 23**  
**Amend Town By-Laws Article 72: Building Fees**  
**(Larry Forshner, et al)**

Add second paragraph to Article 72 Section 3 of the ByLaws

Town of Natick Bylaws

Article 72 Building Regulations

Section 3 FEES

A fee schedule for permits and certificates may be established or amended by the Selectmen and the Building **Commissioner** after due notice has been given by publication in a local newspaper at least fourteen (14) days prior to approval.

**At the completion of any new construction or renovations to property or structures in which the Town of Natick is the deed holder, the department or committee responsible for the management of said property may petition the Board of Selectmen to request abatement from all or a portion of the required fees.**

**RECOMMENDATION:**

**By a vote of 11-0-0 on September 16, 2010, The Finance Committee recommends REFERRAL TO THE SPONSOR with regard to the subject of Article 23.**

*During the review of this article it was noted:*

- *In the proponent's view, the opportunity for waiver of building permit fees has not been consistently applied, nor consistently disclosed to outside contractors or Town personnel with responsibility for construction projects; and the procedures for granting such waivers, as well as the parties authorized to grant them, is unclear.*
- *The authority for granting waivers of building permit fees rests solely with the Selectmen, and this is unambiguous.*
- *The Administration supports the idea that there needs to be clarity and certainty at the beginning of municipal projects with regard to whether building permit fees will be waived. The suggestion of determining this at the end of a project would create considerable confusion and accounting problems, not least of which would relate to the possibility of having to rebate fees in a different fiscal year than when the fees were initially paid.*
- *The operations of the Community Development office, is not dependent on the revenue from building permit fees for funding. That fee revenue is aggregated with local receipts revenues from a variety of other sources and credited to the general fund. The department's expenses, which include various overhead costs in addition to the salaries paid to the inspectors, are funded in the same way as other Town departments through the Town budgeting process.*

### **Article 23 Cont'd**

*Member questions and discussion included the following:*

- *Clarification of the option to waive fees should be clearly delineated in any relevant bid documents.*
- *There was a question as to whether a decision to waive permit fees for the high school project had been made and factored into that project's budget. It was noted that such fees would not be considered a reimbursable expense by the State in funding its share of the high school construction.*
- *The Town Administrator will reiterate the policy regarding possible project fee waiver with Town department managers to be sure all are aware of this.*

**MOTION:** *(Requires majority vote)*

**Move that the Town vote to refer the subject matter of Article 23 to the Sponsor.**

**ARTICLE 24**  
**Amend Town By-Laws Article 72 – Fences**  
**(Craig R. Oliver, et al)**

The undersigned submits this “Citizens Petition” as a request to amend *Article 72, Section 4* of the Natick Town By-Laws regarding *Fences* and hereby request for good cause as shown in this petition that the town meeting representatives make the change requested herein.

**A. Action Requested:**

Amend Article 72, Section 4

All fences shall be erected with the finished side of the fence facing the property of the abutters and the frame side of the fence facing the property on which it is erected. The fence owner shall not use the land between the fence and the boundary line for the storage or disposal of any material. The fence owner shall have access to an abutter’s side of the fence for maintenance and repairs.

~~Unless written permission is secured from the abutters to erect fence on property lines, The~~ fence must be erected within the at least ~~one (1) foot in from~~ boundary lines.

**B. Statement of grounds:**

The petitioners seek to amend the Natick Fence By-Law to conform with the standards and practices of its neighboring communities and those of broader Massachusetts. As part of the process, approximately 25 of Natick’s nearest neighboring communities were surveyed in July/August 2010, and none were found to have a town bylaw that mandates a lot-line setback. The list of surveyed communities include: Wellesley, Needham, Dover, Sherborn, Wayland, Weston, Framingham, Southboro, Newton, Brookline, Westwood, Dedham, Milton, Braintree, Canton, Ashland, Holliston, Medfield, Walpole, Norwood, Millis, Acton, Sudbury, Maynard, Winchester, Belmont, and Arlington

Furthermore, the indirect implication of Natick’s existing bylaw effectively isolates a portion of your property to the other side of your fence, potentially creating unintended legal, use, and safety consequences for property owners that wish to install fences by, among other factors, causing your property to be out-of-sight.

Having the proposed language state that it is “within the boundary lines”, rather than on (or one foot back) enables property owners to have their own fences, without a large gap between each fence.

## **Article 24 Cont'd**

### **C. Environmental impact:**

There is no known negative environmental impact from this petition or change to Article 72, Section 4.

### **D. Economic impact:**

There is no known negative economic impact from this petition or change to Article 72, Section 4. If the amendment does occur, existing fences would still comply with the proposed by-law and would not require any existing property owners to move or remove an existing fence.

### **E. Certification:**

The undersigned certifies, that, to the best knowledge and belief of the undersigned, this petition includes all information and views on which the petition relies, and that it includes any and all representative data and information known to the petitioners.

The undersigned also submits this petition to see if the town will vote to amend Article 72, Section 4 Fences of the Town of Natick By-laws, for the purpose of modifying requirements relative to the erection of fences in relation to property or boundary lines, or otherwise act thereon.

**RECOMMENDATION: By a vote of 12-3-0 on September 23, 2010, The Finance Committee recommends FAVORABLE ACTION with regard to the subject of Article 24.**

*During the review of this article it was noted:*

- *The purpose of this Article is to conform Natick's fence setback By-Law to be consistent with the standards and practices of comparable Massachusetts towns and cities.*
- *As part of the process, approximately 25 of Natick's nearest neighboring communities were surveyed in July/August 2010, and none were found to have a town bylaw that mandates a lot-line setback. The list of surveyed communities include: Wellesley, Needham, Dover, Sherborn, Wayland, Weston, Framingham, Southboro, Newton, Brookline, Westwood, Dedham, Milton, Braintree, Canton, Ashland, Holliston, Medfield, Walpole, Norwood, Millis, Acton, Sudbury, Maynard, Winchester, Belmont, and Arlington.*
- *As part of the process, the Sponsor researched the By-Laws of the listed communities and had follow-up discussions with Building Inspectors of those communities to confirm the non-existence of any fence setback rules or regulations.*
- *There is a generic law on fence topics (MGL Chapter 49) but nothing regarding the concept of fence setbacks.*
- *A concern had been raised by the Town Administrator, based on input from Town Counsel, regarding the issue of granting right of access, or easement, via by-law, however, the wording in question exists in the current by-law, and was not raised as an issue in the recent Charter & By-Law Review Committee's review, so it would not appear this issue is directly relevant to this Article.*
- *Although the Planning Board has not taken a formal vote on this Article, the opinion of that body, expressed at a meeting at which this was presented approximately two months ago, was that this was viewed as a "benign change."*

## **Article 24 Cont'd**

- *It is the proponents' understanding that, because this regulation exists in a by-law, that setback variances aren't an option, and the only recourse is to amend the by-law.*
- *There was no definitive information as to the rationale for the original one-foot setback requirement.*

**MOTION:** (Requires majority vote)

**Move that the Town vote to amend Article 72 of the Town of Natick By-Laws, specifically Section 4 thereof, by deleting the second paragraph in its entirety and replacing it with the following:**

**“The fence must be erected within the boundary lines.”**

**ARTICLE 25**  
**Amend By-Laws Article 79: Construction Hours**  
**(Planning Board)**

To see if the Town will vote to amend the Town Bylaws to set hours for construction activity, or otherwise act thereon.

**RECOMMENDATION:**

**After voting on 3 different member motions on September 16, 2010, The Finance Committee has NO RECOMMENDATION with regard to the subject of Article 25.**

**FinCom votes taken:**

**1) Amended main motion 4-7-0   2) Refer to sponsor 2-9-0   3) Favorable action 6-5-0**

*During the review of this article it was noted:*

- *The purpose of this article is to establish limits to permitted hours of construction for projects requiring building permits.*
- *This article is necessary because no such limits currently exist, leaving Public Safety and Community Development personnel to respond to resident complaints and questions without guidance or clear regulatory authority.*
- *Questions were raised as to why hours proposed for Saturday and Sunday were different.*
- *The proposed restrictions would apply only to projects for which building permits are required.*
- *There were concerns that these restrictions would pose an undue burden on citizens who, due to time constraints, might only be able to do their home improvement work on evenings and weekends.*
- *A by-law is necessary to provide the authority to establish restrictions of this type.*
- *The Police Department reported more than 200 complaints in one year from citizens regarding construction noise.*

*Member questions and discussion included the following:*

- *The impact on homeowners who might only be able to do this work during evenings and weekends.*
- *The hours for Saturday and Sunday should be the same so the regulations would offer the same rights to those with different religious beliefs*
- *The issues for someone who did work around their home, who had limited time available to do this type of work except in the evenings and on weekends.*
- *While trying to establish some guidelines for the Police department, there were some member concerns that this By-law might actually create problems once people understood there were restrictions on this type of activity.*
- *Ms. Terri Evans, the chairman of the Planning Board explained that one reason the Planning Board had focused on only projects requiring a building permit was not to preclude the many small, non-noise-producing projects routinely done by many homeowners.*

## **Article 25 Cont'd**

**MOTION:** (Requires majority vote)

**Move that the Town vote to amend the Natick By-laws by adding a new section to Article 50 (Police Regulations), to read as follows:**

### **“Section 24 Construction Hours**

**No construction activity shall be conducted in the Town of Natick on Monday through Friday other than between the hours of 7:00 A.M. through 6:00 P.M. No construction activity shall be conducted in the Town of Natick on a Saturday other than between the hours of 8:00 A.M. through 4:00 P.M. No construction activity shall be conducted in the Town of Natick on a Sunday or public holiday other than between the hours of 12:00 P.M. through 4:00 P.M.**

**Construction activity may be conducted outside of the foregoing times only if the Planning Board, after consideration of a request therefor at a public meeting, makes a determination that compelling circumstances exist to justify such a request.**

**In this context ‘construction activity’ means any activity for which a building permit is required.**

**Notwithstanding any other provision of this section, construction activity may be permitted outside of the foregoing times where required by emergency conditions as determined by the Building Commissioner or, in the Building Commissioner’s absence, by the Chief of Police or the designee of the Chief of Police.**

**Notwithstanding the foregoing, nothing in this section shall limit the authority of a Special Permit Granting Authority to set or limit construction hours as part of a special permit.”**

**Or otherwise act thereon.**

**ARTICLE 26**  
**Street Acceptance: Main Street**  
**(Town Administrator)**

To see if the Town will vote to accept Main Street as a public way, and any appurtenant easements thereto, as laid out by the Board of Selectmen and as shown on a plan or plans, a copy of which is on file in the office of the Town Clerk; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of Main Street, and any appurtenant drainage, utility or other easements related to said Main Street, and/or to accept grants thereof; and, further, to authorize the Board of Selectmen and other applicable Town of Natick boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article.

Or otherwise act thereon.

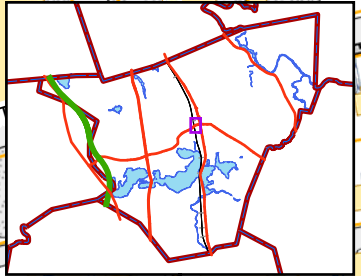
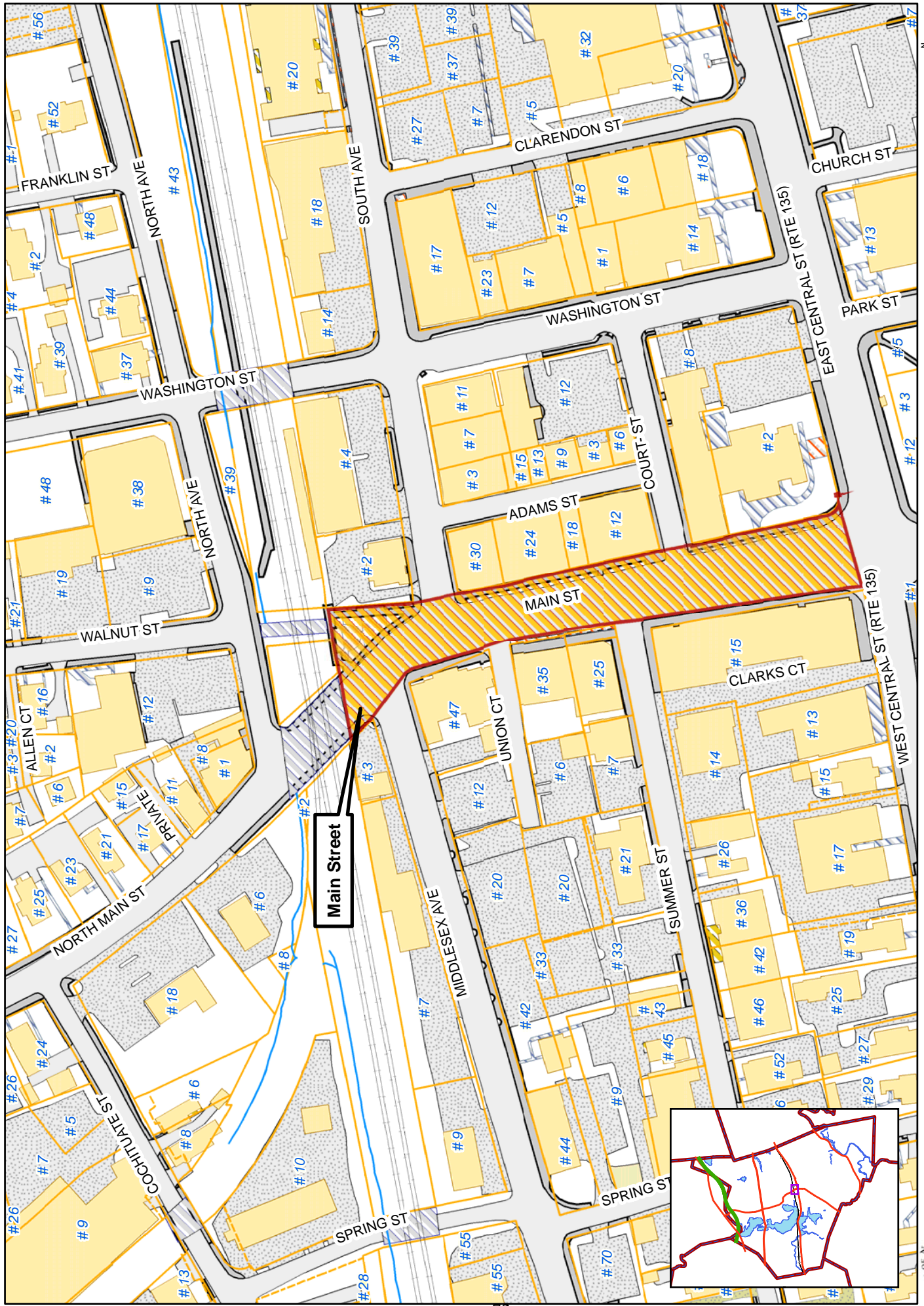
**RECOMMENDATION:** By a vote of 10-1-1 on September 21, 2010, The Finance Committee recommends REFERRAL TO THE TOWN ADMINISTRATOR with regard to the subject of Article 26.

*During the review of this article it was noted:*

- *The purpose of this article is to accept these streets (or portions thereof) as public ways for the Town.*
- *This article is necessary because these major routes in town were never accepted as public ways. Accordingly, the state will not include them in the Route 27 improvement project. There is some uncertainty as to whether the Town should even be investing funds in an unaccepted way.*
- *If the issue of the easements cannot be successfully resolved by Town Meeting, the Administration will not recommend acceptance of the Main Street section specified under Article 26.*
- *If the easements cannot be negotiated the Town could, legally, take possession of the areas by eminent domain, however, this is not considered to be a viable alternative by the Town Administration.*
- *The acceptance of the Main Street area might enable it to be included in the State-funded Rt. 27 reconstruction project although unlikely because the State is seeking to reduce the cost of this project and also appear to be unwilling to waive their prohibition of angle parking about which the downtown property owners feel very strongly.*
- *A concern was raised regarding the inconsistent application of the Town's requirement that abutters contribute to the cost of upgrades required for acceptance of streets by the Town. The Administration believes the downtown streets should be exempt from this requirement because of the length of time it was assumed the roads were already accepted.*

**MOTION:** (Requires majority vote)

**Move that the Town vote to refer the subject matter of Article 26 to the Town Administrator.**



**ARTICLE 27**  
**Street Acceptance – Portion of North Main Street**  
**(Town Administrator)**

To see if the Town will vote to accept a portion of North Main Street as a public way, and any appurtenant easements thereto, as laid out by the Board of Selectmen and as shown on a plan or plans, a copy of which is on file in the office of the Town Clerk; to see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of North Main Street, and any appurtenant drainage, utility or other easements related to said North Main Street, and/or to accept grants thereof; and, further, to authorize the Board of Selectmen and other applicable Town of Natick boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article.

Or otherwise act thereon.

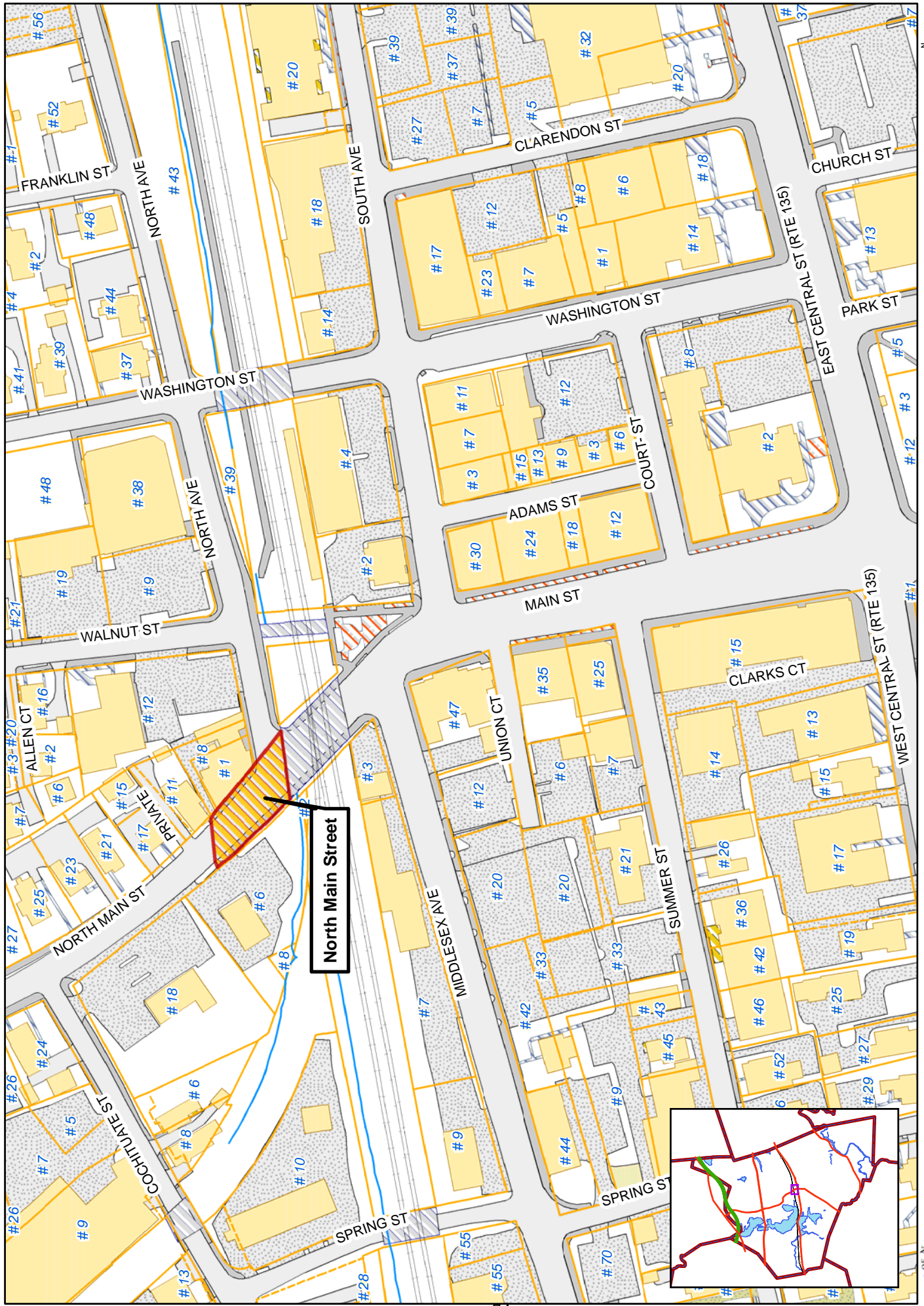
**RECOMMENDATION:** By a vote of 11-0-1 on September 21, 2010, The Finance Committee recommends FAVORABLE ACTION with regard to the subject of Article 27.

*During the review of this article it was noted:*

- *See Article 26 bullets for the highlights of common discussions.*
- *The Board of Selectmen have scheduled a public hearing for October 4th.*
- *There are no outstanding issues with the North Main Street area, covered under Article 27, and this will be recommended for acceptance, assuming no issues arise at the public hearing.*

**MOTION:** (Requires majority vote)

**Move that the Town vote to accept a portion of North Main Street as a public way, and any appurtenant easements thereto, as laid out by the Board of Selectmen and as shown on a plan or plans, a copy of which is on file in the office of the Town Clerk; that the Town vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain or otherwise, easements in any land necessary for laying out and acceptance of North Main Street, and any appurtenant drainage, utility or other easements related to said North Main Street, and/or to accept grants thereof; and, further, to authorize the Board of Selectmen and other applicable Town of Natick boards and personnel to take all related actions necessary or appropriate to accomplish the purposes of this article.**



DISCLAIMER: The information depicted on this map is for planning purposes only. It may not be adequate for legal boundary definition, regulatory interpretation or conveying purposes.

0 100 200 400

Feet

Map Produced: October 7, 2010

**Article 27**  
North Main St Portion

**ARTICLE 28**  
**Street Acceptance – East Central (portion);**  
**West Central (portion) Route 135**  
**(Town Administrator)**

To see if the Town will vote to accept as a public way of the Town of Natick that portion of Route 135 (East Central Street) between the Natick/Wellesley town line and Union Street (station 59+94.55), and that portion of Route 135 (West Central Street) between Cemetery Street (station 109+24.00) and the Natick/Framingham town line, in accordance with the vote of the 1996 Natick Fall Annual Town Meeting under Article 19, or otherwise act thereon.

**RECOMMENDATION:** By a vote of 14-0-0 on September 23, 2010, The Finance Committee recommends **NO ACTION** with regard to the subject of Article 28.

*During the review of this article it was noted:*

- *The Town Administration stated that they were seeking no action on Article 28 after learning that the process for state roads differed from that for Town road acceptance. She noted that the Administration would attempt to convince the State to retain a piece of this road which was proposed for discontinuance by the State.*

**MOTION:**

**NO ACTION**

## **ARTICLE 29**

### **Amend By-Law: Create Sex Offender By-Law (Board of Selectmen)**

To see if the Town will vote to amend the Town of Natick By Laws by adding provisions which would limit the activities of registered or convicted sex offenders, or otherwise act thereon.

**RECOMMENDATION: By a vote of 14-0-0 on September 23, 2010, The Finance Committee recommends FAVORABLE ACTION with regard to the subject of Article 29.**

*During the review of this article it was noted:*

- The purpose of this Article is to regulate certain activities of classified level 2 and 3 sex offenders to help ensure the safety of youths, while balancing constitutional protections and established precedents.*
- The regulation as proposed would apply to both adult and juvenile offenders.*
- The Police Chief considers the proposed regulation to be enforceable and a useful tool to assist that department in addressing this public safety issue.*
- Consideration was given to not making the proposed restrictions so onerous, e.g., prohibiting individuals from residing or working in the Town, such that this could prompt offenders to “go underground” such as failing to register as required by law.*
- Although there is a possibility this could be used to harass someone, that possibility always exists when law enforcement personnel must use some level of judgment in determining what is reasonable suspicion.*
- Private schools are not included in the restrictions due to the implications of imposing restrictions on private property of any type.*
- According to the opinion expressed by the Attorney General’s office the fact that a sex offender had received due process in being convicted may be weighed against limitation of the individual’s civil rights in restricting access to a public library.*
- Massachusetts General Law Chapter 40 Section 21d may address individuals’ right to appeal fines which may be issued under this provision.*
- A wording change was suggested in the third line of paragraph 2 under Section 3 of the proposed by-law to change “...said Sex Offender...” to “...said individual...” to reflect the uncertainty of whether or not the police officer’s suspicion was correct in the circumstance being described.*
- Levels of Sex Offenders in Massachusetts provided below.*

#### **NOTE >>**

**The Finance Committee voted to amend the main motion:**

**Section 3, paragraph 2: change "Sex Offender" to "Individual" (first occurrence only)**

The Official Website of the Executive Office of Public Safety and Security (EOPSS)

Mass.Gov

## Public Safety



Home > Crime Prevention & Personal Safety > Sex Offenders >

### Levels of Sex Offenders

#### Definitions of the Classification Levels for Sex Offenders

#### RELATED LINKS

[Wanted High Risk Sex Offenders](#)

A sex offender is any person who resides, works or attends an institution of higher learning in the Commonwealth and who has been convicted of a sex offense, or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense, or a person released from incarceration or parole or probation supervision or custody with the department of youth services for such a conviction or adjudication, or a person who has been adjudicated a sexually dangerous person or a person released from civil commitment on or after August 1, 1981.

There are 3 Levels of Sex Offenders in Massachusetts

#### Level 1 Sex Offenders

Where the Sex Offender Registry Board determines that the risk of reoffense by an offender is low and the degree of dangerousness posed to the public by that offender is not such that a public safety interest is served by public availability, the Board shall give that offender a Level 1 designation. Information on Level 1 offenders will not be available to the public. Neither the police nor the Board have authority to disseminate information to the general public identifying a Level 1 offender. Information identifying Level 1 offenders may only be given to the Department of Correction, any county correctional facility, the Department of Youth Services, the Department of Social Services, the Parole Board, the Department of Probation and the Department of Mental Health, all city and town police departments and the Federal Bureau of Investigation for law enforcement purposes.

#### Level 2 Sex Offenders

Where the Board determines that the risk of reoffense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public availability of registration information, it shall give a level 2 designation to the sex offender.

The public shall have access to the information regarding a level 2 offender through the Local Police Department and through the [Sex Offender Registry Board](#).

#### Level 3 Sex Offenders

Where the Board determines that the risk of reoffense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination, it shall give a level 3 designation to the sex offender.

The public shall have access to the information regarding a level 3 offender through the Local Police Departments and through the [Sex Offender Registry Board](#).

## **Article 29 Cont'd**

**MOTION:** (Requires majority vote)

Move that the Town vote to amend the Town of Natick By Laws by adding a new Article 54, which Article would limit the activities of registered or convicted sex offenders, said Article 54 to read as follows:

### **ARTICLE 54 – SEX OFFENDERS**

#### **Section 1      Definitions**

1. "Sex Offender" means a person who resides, works or attends an institution of higher learning in the Commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under M.G.L. c. 123A § 14, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said c. 123A, whichever last occurs, on or after August 1, 1981.
2. "Classified" means a person who has been finally classified as a Level 2 or Level 3 Sex Offender by the Sex Offender Registry Board or its successor under 803 C.M.R. §§ 1.13 or 1.22-1.23, or their successor provisions as the same may be amended from time to time.
3. "Organized" means any activity including but not limited to summer camp, library reading hour, educational program or sporting event which is developed, overseen and administered by the Town of Natick or a department or agency thereof, the Town of Natick School Department, or other legal entity under agreement with the Town of Natick.
4. "Organized Youth Activity" means any Organized activity involving one or more children under seventeen (17) years of age and which activity is taking place on Property owned by the Town of Natick.
5. "Property" means any building or real property in the Town of Natick which is owned by the Town of Natick and under the control of the Board of Selectmen or a department or agency of the Town of Natick or the Town of Natick School Department.

#### **Section 2      Prohibition**

1. It shall be unlawful for a Classified Level 2 or Level 3 Sex Offender to knowingly be within three hundred (300) feet of an Organized Youth Activity.

#### **Section 3      Enforcement**

1. The Town of Natick Police Chief and duly sworn Police Officers shall be responsible for the enforcement of this by-law.
2. If a police officer has reasonable suspicion to believe that a Classified Level 2 or Level 3 Sex Offender is within three hundred (300) feet of an Organized Youth Activity as defined in Section 1, in violation of this by-law, the officer shall require

## Article 29 Cont'd

said **individual** to provide his/her name, address, and telephone number. If it is established that the individual is a Classified Level 2 or Level 3 Sex Offender, then the officer shall notify said Sex Offender that he/she is in violation of this by-law and a fine shall be issued pursuant to this by-law.

**3. Non-Criminal Fine.** A violation of this by-law may be enforced by a police officer by non-criminal complaint pursuant to the provisions of M.G.L. c. 40, § 21D. Each appearance at an Organized Youth Activity shall be deemed to be a separate offense, even if multiple appearances occur on the same day. The penalty for violation of this by-law shall be three hundred dollars (\$300.00).

### **Section 4      Exceptions**

A Sex Offender who has been Classified as a Level 2 or Level 3 Sex Offender will not be in violation of this by-law in the following situations:

- a. The individual is a minor involved in the Organized Youth Activity;
- b. The individual is at his or her place of residence that is within three hundred (300) feet of an Organized Youth Activity;
- c. The individual is at his or her place of employment that is located within three hundred (300) feet of an Organized Youth Activity;
- d. The individual is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility that is located within three hundred (300) feet of an Organized Youth Activity;
- e. The individual is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to M.G.L. c. 123 and the facility is located within three hundred (300) feet of an Organized Youth Activity;
- f. The individual is a mentally ill person subject to guardianship pursuant to M.G.L. c. 201 § 6 or a mentally retarded person subject to guardianship pursuant to M.G.L. c. 201 § 6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised twenty-four (24) hours a day and is located within three hundred (300) feet of an Organized Youth Activity;
- g. The individual is the parent of a natural or adopted child which child's participation in the Organized Youth Activity reasonably requires the attendance of the Sex Offender as the child's parent at the Organized Youth Activity but only if the Sex Offender's presence at the Organized Youth Activity occurs only during the hours of activity related to the participation by the child;
- h. The individual is walking, driving or traveling through a three hundred (300) foot zone of an Organized Youth Activity on his/her way from one location to another destination and does not stop or stand within three hundred (300) feet of the Organized Youth Activity.